



The Gazette of India

EXTRAORDINARY

Part II—Section 2

PUBLISHED BY AUTHORITY

No. 46] NEW DELHI, WEDNESDAY, DECEMBER 4, 1957/AGRAHAYANA 13, 1879

LOK SABHA

The following Bill was introduced in Lok Sabha on the 4th December, 1957:—

BILL NO 91 OF 1957

A Bill further to amend the Payment of Wages Act, 1936.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Wages (Amendment) Act, 1957. Short title and commencement

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

4 of 1936.

2. In section 1 of the Payment of Wages Act, 1936 (hereinafter referred to as the principal Act),— Amendment of section 1.

10 (i) in sub-section (5), for the words “the Act”, the words “this Act” shall be substituted; and

(ii) in sub-section (6), for the words “two hundred rupees”, the words “four hundred rupees” shall be substituted.

3. In section 2 of the principal Act,—

15 (i) for clause (i), the following clause shall be substituted, namely:— Amendment of section 2.

63 of 1948.

“(i) “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948;”

(ii) in clause (ii)—

(1) for item (c), the following item shall be substituted, namely:—

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“(c) inland vessel, mechanically propelled;”

(2) after item (f), the following item shall be inserted, namely:—

“(g) establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation or the supply of water, or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on;” and

(iii) for clause (vi), the following clause shall be substituted, namely:—

“(vi) “wages” means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(a) any remuneration payable under any award or settlement between the parties or order of a court;

(b) any remuneration to which the person employed is entitled in respect of over time work or holidays or any leave period;

(c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

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(d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

(e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

but does not include—

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(1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;

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5 (2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;

(3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

10 (4) any travelling allowance or the value of any travelling concession;

(5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or

15 (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).'

25 of 1934. 4. In section 3 of the principal Act, in clause (a) of the proviso, Amendment of section 3.
for the words, brackets, letter and figures "clause (e) of sub-section (1) of section 9 of the Factories Act, 1934", the words,
20 brackets, letter and figures "clause (f) of sub-section (1) of section
63 of 1948. 7 of the Factories Act, 1948" shall be substituted.

5. In section 7 of the principal Act,—

Amendment of section 7.

25 (i) in sub-section (1), the *Explanation* shall be re-numbered as *Explanation I*, and after the *Explanation* as so re-numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation II*.—Any loss of wages resulting from the imposition, for good and sufficient cause, upon a person employed of any of the following penalties, namely:—

30 (i) the withholding of increment or promotion (including the stoppage of increment at an efficiency bar);

(ii) the reduction to a lower post or time scale or to a lower stage in a time scale; or

(iii) suspension;

35 shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in this behalf by the State Government by notification in the Official Gazette.";

(ii) in sub-section (2), for clause (d), the following clause shall be substituted, namely:—

“(d) deductions for house-accommodation supplied by the employer or by Government or any housing board set up under any law for the time being in force (whether the Government or the board is the employer or not) or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette;”;
and

(iii) for clause (k), the following clause shall be substituted, namely:—

“(k) deductions, made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such Government;”.

Amendment
of section
14.

6. In section 14 of the principal Act, in sub-section (1), for the words, brackets and figures “sub-section (1) of section 10 of the Factories Act, 1934”, the following shall be substituted, namely:—

“sub-section (1) of section 8 of the Factories Act, 1948”.

Amendment
of section
17.

7. In section 17 of the principal Act,—

(i) in sub-section (1)—

(a) for the words, brackets and figures “An appeal against a direction made under sub-section (3) or sub-section (4) of section 15”, the following shall be substituted, namely:—

“An appeal against an order dismissing either wholly or in part an application made under sub-section (2) of section 15, or against a direction made under sub-section (3) or sub-section (4) of that section”;

(b) for the words “the direction”, the words “the order or direction” shall be substituted; and

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Save as provided in sub-section (1), any order dismissing either wholly or in part an application made under 40

sub-section (2) of section 15, or a direction made under sub-section (3) or sub-section (4) of that section shall be final.”.

8. After section 17 of the principal Act, the following section shall be inserted, namely:—

Insertion of
a new
section 17 A.

5 “17A. (1) Where at any time after an application has been made under sub-section (2) of section 15 the authority, or where
10 at any time after an appeal has been filed by an employed person under section 17 the court referred to in that section, is satisfied
15 that the employer or other person responsible for the payment of wages under section 3 is likely to evade payment of any
 amount that may be directed to be paid under section 15 or section 17, the authority or the court, as the case may be, after giving
 the employer or other person an opportunity of being heard, direct the conditional attachment of so much of the property of the
 employer or other person responsible for the payment of wages as is, in the opinion of the authority or court, sufficient to satisfy
 the amount which may be payable under the direction.

Conditional
attachment
of property
of employer
or other
person
responsible
for payment
of wage.

5 of 1908.

20 (2) The provisions of the Code of Civil Procedure, 1908, relating to attachment before judgment under that Code shall, so far as may be, apply to any order for conditional attachment under sub-section (1).”.

STATEMENT OF OBJECTS AND REASONS

By the enactment in 1936 of the Payment of Wages Act, it was intended to ensure that—

- (i) wages actually disbursable to workers covered by the Act are disbursed within the prescribed wage-period; and
- (ii) employees get their full wages without any deductions which are not specially authorised by the law.

The working of the Act has shown that the Act requires to be amended in certain respects. It is also considered desirable to extend the benefit of the Act to a larger category of persons. The important proposals relate to raising the wage limit from Rs. 200/- a month to Rs. 400/-, extension of the Act to construction industry and revision of the definition of the term "wages". The reasons for the amendments are, wherever necessary, given in the notes on clauses attached to this Bill.

G. L. NANDA.

NEW DELHI;

The 19th November, 1957.

Notes on clauses

Clause 2 (ii).—The existing wage limit of two hundred rupees was fixed in 1936. The pattern of the earnings of the wage groups intended to be protected by the Act has since undergone considerable change. Accordingly it is proposed to apply the Payment of Wages Act to a person who is employed on wages not exceeding four hundred rupees a month in any establishment covered by the Act.

Clause 3 (ii).—Construction industry which employs a large number of workers has assumed great importance during recent years owing to the large hydro-electric and power schemes that are under construction. The workers in the construction industry engaged in the construction and maintenance of roads, bridges, canals, buildings, or in operations connected with irrigation, navigation or supply of water or generation, transmission and distribution of electricity or any other form of power stand in need of protection.

Clause 3 (iii).—The existing definition of the term “wages” has given rise to certain practical difficulties particularly in regard to interpretation of certain words used in the definition. In some cases the High Courts have ruled that the word “wages” did not mean “potential wages” but “wages earned”. Now-a-days the terms of payment under contracts of employment are frequently modified by the awards of tribunals or by the terms of binding settlements. The wages revised statutorily through adjudication, arbitration, conciliation or similar statutory process should also be deemed to be wages for purposes of the Act. The definition of “wages” has accordingly been recast and made comprehensive and clear.

Clause 5 (i).—The question whether reduction in wages, consequent upon any punishments imposed like suspension, stoppage of increments, reduction to lower post or scale, etc., would be deductions authorised under the Payment of Wages Act has been a subject of conflicting rulings, by courts of law. The intention of Government has been that the deductions consequent upon punishments under service rules should be authorised deductions under the Act. It is, therefore, intended to make it clear that any deduction in wages consequent upon imposition of punishments under the service rules will be authorised deductions under the Act.

Clause 5 (ii).—Under section 7(2) (d) of the Payment of Wages Act, deductions for house-accommodation can be made only when the accommodation is supplied by the employer. Under the Subsidised Industrial Housing Scheme of the Government of India, State Governments construct tenements which are let out to industrial

workers on suitable rents. To enable easy collection of rent of such tenements, it is proposed to amend the Act to enable deduction of rents in such cases from the wages of the concerned workers.

Clause 5 (iii).—With the nationalisation of life insurance business it has been considered desirable to allow deduction of insurance premia from the wages of employees, at their written authorisation and necessary provision to this effect has been made.

Clause 5 (iii).—The amendment proposed will enable workers to subscribe to Government securities like the National Plan Loan, National Cash Certificates, and deposits in Post Office Savings Banks in pursuance of savings schemes.

Clause 7.—Dismissal of a claim by an authority was not considered as a “direction” under section 15 and therefore it is proposed to make a provision for an appeal against an order dismissing a claim.

Clause 8.—Recovery in execution of a direction made by an authority under the Act takes a long time. Arrears of wages also do not get sufficient priority in case the concern is wound up. To safeguard the workers’ interests in such cases it is proposed to empower the authority to order conditional attachment of the property of the employer or other person responsible for the payment of wages, pending disposal of the application, unless the employer or other person deposits with the authority an amount sufficient to satisfy the claim or gives security for a like amount.

M. N. KAUL,
Secretary.